

MONTANA LEGISLATIVE HISTORY

Chapter 411 1977

Bill H 513 S _____

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) 2-1 _____ C

No roll, visitors _____ C

Register or _____ C

or exhibits _____ C

_____ C

Exec. Action, Date out 2-7 _____ C

S. Committee on Judiciary

Hearing Date(s) 3-8 _____ C

_____ C

_____ C

_____ C

Exec. Action, Date out 3-24

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 513	relating to the carrying and disposing of concealed weapons, etc.	1-25	Gilligan	Tuesday 1st	do pass	2-7
HB 200	60 days notice be given to the defendant in an action for professional negligence before a complaint may be filed.	1-25 referred from Bs & In	Fagg	Weds 2nd	do not pass	2-22
HB 355	providing for a driver rehabilitation advisory council etc.	1-26	Gould	Monday 31st	sub-committee Weds 26 do pass	2-11
HB 532	state funding of operating expenses for district courts salaries and conditions of employment etc.	1-26	Dussault	Thurs 3rd	do pass	2-7
SB 92	revise statutes governing state law library, removing state auditor & sec. of st. from board of trustees, etc.	1-26	Thiessen	March 7 Monday	CONCURRED IN	3-7
SB 26	to revise and clarify the laws relating to water use.	1-26	Graham	Mon 7th	"WATER" do pass as amended	2-17

1 BILL NO. 513
 2 INTRODUCED BY William Ryan
 3 by Request of County Atty. Assoc.
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
 5 CARRYING AND DISPOSING OF CONCEALED WEAPONS; AMENDING
 6 SECTION 94-8-210; AND REPEALING SECTION 94-8-211. R.C.M.
 7 1947."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 94-8-210, R.C.M. 1947, is amended
 11 to read as follows:
 12 "94-8-210. Carrying certain concealed weapons in
 13 ~~cities or towns forbidden punishment.~~ (1) Every person
 14 ~~who, within the limits of any city or town,~~ carries or bears
 15 concealed upon his person a dirk, dagger, pistol, revolver,
 16 slingshot, swordcane, billy, knuckles made of any metal or
 17 hard substance, knife having a blade four inches long or
 18 longer, razor, not including a safety razor, shotgun sawed
 19 off to a length of 18 inches or less, or other deadly
 20 weapon, shall be punished by a fine not exceeding five
 21 hundred dollars or by imprisonment in the county jail for a
 22 period not exceeding six months, or by both such fine and
 23 imprisonment, ~~or may be punished by imprisonment in the~~
 24 ~~state penitentiary for a period not exceeding five years;~~
 25 (2) A person who has previously been convicted of an

1 offense, committed on a different occasion than the offense
 2 under this section, in this state or any other jurisdiction
 3 for which a sentence to a term of imprisonment in excess of
 4 1 year could have been imposed and who carries or bears
 5 concealed upon his person any of the weapons described in
 6 subsection (1) shall be punished by a fine not exceeding
 7 \$1,000 or imprisoned in the state prison for a period not
 8 exceeding 5 years, or both."

9 Section 2. There is a new R.C.M. section that reads as
 10 follows:

11 Disposing of confiscated concealed weapons. (1) Any
 12 weapon described in 94-8-210, when unlawfully possessed, is
 13 declared to be a nuisance. Any weapon confiscated under
 14 94-8-210 shall be delivered to the sheriff for the county
 15 wherein the weapon was confiscated.

16 (2) The sheriff to whom the weapon is surrendered
 17 shall destroy it, cause it to be destroyed, or render it or
 18 cause it to be rendered useless for its intended purpose and
 19 harmless to human life.

20 (3) Notwithstanding subsection (2) of this section,
 21 the sheriff to whom the weapon is surrendered may not
 22 destroy it if:

23 (a) a judicial officer of a court of record or a
 24 county attorney files with the sheriff an affidavit stating
 25 that the preservation thereof is necessary to serve the ends

INTRODUCED BILL

1 of justice; or

2 (b) a judicial officer of a court of record or a
3 county attorney directs the weapon to be retained in a
4 laboratory for the purpose of research, comparison,
5 identification, or other endeavor toward the prevention and
6 detection of crime.

7 (4) An official record shall be made and retained, in
8 the case of destruction under subsection (2) of this
9 section, of a firearm, giving the caliber, model, make, and
10 manufacturer's name and serial number or, if none, any other
11 distinguishing number or identification mark.

12 Section 3. Repealer. Section 94-8-211, R.C.M. 1947, is
13 repealed.

-End-

JUDICIARY COMMITTEE
February 1, 1977

The regular meeting on the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building, Helena, Montana on Tuesday. Members not in attendance were Representatives Day, Dussault, Ramirez and Seifert.

Scheduled for hearing were House Bills 279, 498, 500 and 513.

HOUSE BILL #513:

REPRESENTATIVE GILLIGAN, DISTRICT #38:

This bill is concerned with the carrying of concealed weapons. We added a new section about sawed-off shotguns, with the fine being 500 dollars or imprisonment in the county jail for a period not exceeding 6 months, or by both such fine and imprisonment. There was another change in the repealer, page 3, outside of a city or town. It is not illegal in the entire state.

TOM HONZEL, COUNTY ATTORNEYS:

I would ask that 94-A-210 and 94-A-211 be repealed, lines 23 and 24 should be stricken. These are the penalty sections and are present law. Our intent is that we have tried to consolidate the two sections, change within or without the city limits and make the penalty the same.

PROPONENT, TOM DOWLING, COUNTY ATTORNEYS:

We support the bill.

REPRESENTATIVE DUSSAULT CAME IN.

There was discussion about how a sawed-off shotgun could be called a concealed weapon or if it could even be concealed. Mr. Honzel showed how it might be done, with an overcoat or oversized pockets, etc. It was mentioned that it might be put into a pantleg also.

The hearing closed on House Bill #513.

THE HEARING OPENED ON HOUSE BILL #500:

REPRESENTATIVE DRISCOLL, DISTRICT #91:

This bill is one of many introduced by the post-audit committee, it came up after the state tax appeals board. There is no statute that makes the attorney general the overriding opinion. The intent is very simple. This would specify the effect of an attorney generals opinion and clarify his duties.

MIKE McGRATH, ATTORNEY GENERALS OFFICE:

We are very much in support. It is a cheaper method of getting questions answered. There isn't any statute that gives authority over other attorneys.

JUDICIARY COMMITTEE

EXECUTIVE SESSION

February 7, 1977

Following the regular meeting of the House Judiciary Committee an executive session was held at 9:30 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Dussault, Kennerly and Seifert. Chairman Scully presided.

HOUSE BILL #326:

REPRESENTATIVE LORY moved to amend page 1, section 3, line 17, following "government" strike "or". The motion to amend carried with the vote unanimous.

REPRESENTATIVE LORY moved "do pass as amended". Discussion followed about standards of training, the certified programs available, and the fiscal impact. The question was called and the motion carried with Representatives Roth and Day voting "no".

HOUSE JOINT RESOLUTION #17:

REPRESENTATIVE LORY moved "do not pass". The motion carried with the following representatives voting "no".

Ramirez	Conroy	Scully
Colburn	Teague	

HOUSE BILL #291:

REPRESENTATIVE TEAGUE moved to amend page 2, line 1, following, "such" strike "control" insert "possession or transfer". After some discussion he withdrew his motion.

REPRESENTATIVE KEYSER presented written amendments from the sub-committee, wherever the word "weapon" appears, strike it and insert, "firearm". The motion to amend carried with the vote unanimous. (copy attached)

There followed some discussion about presumption and what it presumed to do, and what it included. Following this discussion and the proposed amendments of the sub-committee Representative Keyser moved to table until Wednesday. The motion carried with Representative Ramirez voting "no".

HOUSE BILL #457:

REPRESENTATIVE HAND moved "do not pass". The motion carried with Representatives Holmes and Courtney voting "no".

HOUSE BILL #477:

REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

Executive session
February 7, 1977

SENATE BILL #70:

REPRESENTATIVE KEYSER moved "be concurred in". The motion carried with the vote unanimous.

HOUSE BILL #492:

REPRESENTATIVE BAETH moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #498:

REPRESENTATIVE LORY moved to amend page 1, section 1, subsection (1), line 13.

following "investigate"

strike "criminal activity"

insert "alleged unlawful activity"

The motion to amend carried with the vote unanimous.

REPRESENTATIVE HOLMES moved to insert a new subsection, following line 21. The motion failed with Representative Holmes casting the only affirmative vote.

REPRESENTATIVE LORY moved "do pass as amended". The motion carried with Representative Hand voting "no".

HOUSE BILL #499:

REPRESENTATIVE SCULLY moved "do pass".

REPRESENTATIVE HOLMES moved a substitute motion to amend as follows, on lines 16 and 18

strike "\$35"

insert "\$15"

The motion failed with all voting "no" except Representative Holmes.

The question was called and the motion "do pass" carried with Representatives Hand, Eudaily and Teague voting "no".

HOUSE BILL #500:

REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #513:

REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #532:

REPRESENTATIVE KEYSER moved "do pass". There was general discussion concerning how to fund it, if it would reduce property taxes, etc.

REPRESENTATIVE SEIFERT CAME IN.

There followed general discussion about possibly writing a letter to the appropriations committee to the effect that the judiciary

FORTY-FIFTH LEGISLATIVE SESSION
1977
 COMMITTEE ON JUDICIARY

FILE NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
H.B. 396	3-4-77	3-11-77	3-11-77				3-11-77		
H.B. 411	3-2-77	3-17-77	3-24-77					3-24-77	
H.B. 456	2-14-77	3-8-77	3-19-77						3-19-77
H.B. 457	3-2-77	3-22-77	3-30-77					3-30-77	
H.B. 461	4-6-77	4-8-77	4-12-77				4-12-77		
H.B. 472	2-19-77	3-17-77	3-18-77				3-18-77		
H.B. 483	2-10-77	2-21-77	2-21-77					2-21-77	
H.B. 492	2-14-77	3-7-77	4-1-77					4-1-77	
H.B. 497	2-25-77	3-15-77	3-15-77				3-15-77		
H.B. 498	2-17-77	3-18-77	3-30-77					3-30-77	
H.B. 499	2-14-77	3-4-77	4-2-77					4-2-77	
H.B. 500	2-14-77	3-7-77	3-7-77				3-7-77		
H.B. 513	2-14-77	3-8-77	3-24-77					3-24-77	
H.B. 533	2-25-77	3-18-77	3-19-77				3-19-77		
H.B. 544	3-5-77	3-23-77	4-1-77						4-1-77
H.B. 567	2-17-77	3-2-77	3-29-77					3-29-77	

(Separate Sheet for Senate, House Bills, and Resolutions)

1 H BILL NO. 513
2 INTRODUCED BY William Ryan
3 By Request of County Attys' Assoc.

4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
5 CARRYING AND DISPOSING OF CONCEALED WEAPONS; AMENDING
6 SECTION 94-8-210; AND REPEALING SECTION 94-8-211, R.C.M.
7 1947."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 94-8-210, R.C.M. 1947, is amended
11 to read as follows:

12 "94-8-210. Carrying certain concealed weapons in
13 cities--or--towns forbidden--punishment. (1) Every person
14 who, within the limits of any city or town, carries or bears
15 concealed upon his person a dirk, dagger, pistol, revolver,
16 slingshot, swordcane, billy, knuckles made of any metal or
17 hard substance, knife having a blade four inches long or
18 longer, razor, not including a safety razor, shotgun sawed
19 off to a length of 18 inches or less, or other deadly
20 weapon, shall be punished by a fine not exceeding five
21 hundred dollars or by imprisonment in the county jail for a
22 period not exceeding six months, or by both such fine and
23 imprisonment, ~~or may be punished by imprisonment in the~~
24 ~~state penitentiary for a period not exceeding five years.~~
25 (2) A person who has previously been convicted of an

1 offense, committed on a different occasion than the offense
2 under this section, in this state or any other jurisdiction
3 for which a sentence to a term of imprisonment in excess of
4 1 year could have been imposed and who carries or bears
5 concealed upon his person any of the weapons described in
6 subsection (1) shall be punished by a fine not exceeding
7 \$1,000 or imprisoned in the state prison for a period not
8 exceeding 5 years, or both."

9 Section 2. There is a new R.C.M. section that reads as
10 follows:

11 Disposing of confiscated concealed weapons. (1) Any
12 weapon described in 94-8-210, when unlawfully possessed, is
13 declared to be a nuisance. Any weapon confiscated under
14 94-8-210 shall be delivered to the sheriff for the county
15 wherein the weapon was confiscated.

16 (2) The sheriff to whom the weapon is surrendered
17 shall destroy it, cause it to be destroyed, or render it or
18 cause it to be rendered useless for its intended purpose and
19 harmless to human life.

20 (3) Notwithstanding subsection (2) of this section,
21 the sheriff to whom the weapon is surrendered may not
22 destroy it if:

23 (a) a judicial officer of a court of record or a
24 county attorney files with the sheriff an affidavit stating
25 that the preservation thereof is necessary to serve the ends

1 of justice; or

2 (b) a judicial officer of a court of record or a
3 county attorney directs the weapon to be retained in a
4 laboratory for the purpose of research, comparison,
5 identification, or other endeavor toward the prevention and
6 detection of crime.

7 (4) An official record shall be made and retained, in
8 the case of destruction under subsection (2) of this
9 section, of a firearm, giving the caliber, model, make, and
10 manufacturer's name and serial number or, if none, any other
11 distinguishing number or identification mark.

12 Section 3. Repealer. Section 94-8-211, R.C.M. 1947, is
13 repealed.

-End-

March 24, 1977

STANDING COMMITTEE REPORT
Senate Committee on Judiciary

That House Bill No. 513 be amended as follows:

1. Amend page 1, section 1, lines 18 and 19.
Following: "razor,"
Strike: "shotgun sawed off to a length of 18 inches or less,"
2. Amend page 2, section 2, line 12.
Following: "94-8-210"
Insert: "which cannot be used for any lawful purpose"
3. Amend page 3, section 2, line 9.
Following: "section"
Strike: ", "

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 8, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:40 a.m. in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Murray who was excused. Also, Senators Turnage and Towe were excused at 10:00 a.m. to attend meetings in the House.

WITNESSES PRESENT TO TESTIFY:

Rep. Menahan - District 90, Anaconda
Tom Dowling - Sheriff's Assn. and County Attorney's Assn.
James R. Burns - Montana Sheriff's Assn.
Larry Huss - Montana Contractor's Assn.
Robert Holding - Montana Wood Products Assn.
Ross Cannon - Montana Savings & Loan Assn.
Rep. Gilligan - District 38, Great Falls
Rep. Meloy - District 29, Helena
Cliff Christian - Montana Board of Realtors

CONSIDERATION OF HOUSE BILL 177:

Representative Menahan of Anaconda, sponsor of this bill, had Tom Dowling who represents the Montana Sheriff's Assn. and the County Attorney's Assn. explain the bill to the committee. Mr. Dowling said that this was piece of legislation that had been killed by the Senate Judiciary Committee in the 1975 session, and that it is simply an act to amend and limit the liability of sheriff's when holding property which has been seized.

Jim Burns, Cascade County Deputy Sheriff and vice-president of the Montana Sheriff's Assn., was the next proponent to testify. He said that they feel that it is unfair when a sheriff is held liable for property he is holding although he has no interest in it.

Tom Dowling told the committee that the intent of the legislation is to relieve the sheriffs of the liability for property being held by them because the moving party is the one who should be held liable. He then offered to prepare an amendment for the committee's consideration that would make the moving party responsible for any costs incurred. Senator Towe suggested that the moving party have to put up a bond. The Chairman accepted Mr. Dowling's offer to prepare an amendment.

CONSIDERATION OF HOUSE BILL 513:

Rep. Gilligan of Cascade County, sponsor of this bill, said that it adds a new subsection for a felon apprehended carrying a concealed weapon.

Tom Dowling explained that carrying a concealed weapon should be an offense anywhere.

At this time, Senator Roberts assumed the chair since Senator Turnage had to attend a House meeting. Senator Towe was excused also to attend a House meeting.

CONSIDERATION OF HOUSE BILL 456:

Rep. Meloy, sponsor of this bill, was delayed so Larry Huss who represents the Montana Contractor's Assn. explained the bill to the committee. He said that it simply requires simultaneous notice to the owner of a property at the time a lien is filed on his property. There is also a requirement that this must be filed with the Clerk of Court.

Robert Holding, representing the Montana Wood Products Assn., agreed with the comments made by Mr. Huss.

Cliff Christian, Montana Board of Realtors, appeared as a proponent of the bill.

Ross Cannon, representing the Montana Savings & Loan Assns., said that he had a simple amendment to offer and which he distributed to the committee. The amendment would require that notice be given also to prior mortgagees.

Larry Huss asked permission of Chairman Roberts to answer to the proposed amendment. He said that it is not really simple because it will require a title search to be made and this will be an extra cost and needless expense. He said the amendment is to all intents worthless.

The Chairman asked Ross Cannon to reply to Mr. Huss's statements. Mr. Cannon agreed that the position of a lien would not be altered by this title search, but said that the savings and loan associations should be notified so that they would know about a lien before final settlement of an account was made by them. He said that this shifts the burden from them having to check the records.

Mr. Huss said a laborer would be put in a bind if he had to check the records; that this is an effort to speed up building and that the amendment would slow things down; and that the only different thing is that this would require a mailed notice. He also said that this bill would expedite the payment of contractors by the owner.

Rep. Meloy, sponsor of the bill who had been delayed in the House, appeared and Chairman Roberts allowed him to testify on his bill. He looked over the proposed amendment and said that he did not believe it is needed. He said that the bill had been designed to give an owner of property a notice of a lien on his property.

SENATE

Judiciary

COMMITTEE

BILL

HB 177, 456, 513

VISITORS'

REGISTER

DATE

3/2/17

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOS

*Burt Stupor**JPNS Nurgert**James B. Bunn**Mont. Sheriff's Assn.**113177**X**Tom Bunkin**Sheriff's Assn.**"**Tom Bunkin**City Atty Assn**513**Larry Allen**Hout. Cont. Assoc.**456**X**Don Pitz Heding**Montana Wood Products, Co.**456**X**Don L. Larch**Mont. Forestry Council**456**X*

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 24, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:40 a.m. in Room 442 of the State Capitol Building on the above date.

ROLL CALL:

All members of the committee were present for this meeting except Sen. Regan who was excused to attend another meeting.

WITNESSES PRESENT TO TESTIFY:

Senator Lockrem - Billings, District 32

EXECUTIVE SESSION

The following bills were acted on this day in executive session:

HB 177 - Sen. Towe moved to amend page 1, section 1, lines 18 through 25, following "party.", by striking lines 18 through 25 in their entirety, and inserting "If the sheriff will incur substantial costs in transporting, keeping, or storing the property seized, the party requesting service of a writ of execution or attachment shall provide a bond or other security to pay for all costs which may be incurred as a result of the service of such writ."; and to further amend the title to make it conform. The motion carried unanimously. He then moved that HB 177 as amended BE CONCURRED IN. The motion carried unanimously.

Senator Murray was assigned by the Chairman to carry this bill on 2nd Reading.

HB 721 - This bill had been returned to this committee for amendment. Sen. Towe moved the adoption of the proposed amendment to page 1, section 1, lines 24 and 25, following "~~both~~", by striking "A minor charged with the offense of possession of an intoxicating substance", and inserting "A person convicted of the offense of possessing an intoxicating substance shall be fined not to exceed \$50 or be imprisoned in the county jail for any term not to exceed 10 days, or both. If the proceedings are held in the youth court, the preceding penalty does not apply and the offender"; to change the title following "ACT" in line 7 by inserting "WHEN PROCEEDINGS ARE HELD IN THE YOUTH COURT"; and to further amend page 2, section 1, lines 2 and 3, following "In", by striking "the" and inserting "such" and following "case", by striking "of a minor convicted under this section". The motion carried unanimously. He then moved that HB 721 as amended BE CONCURRED IN. The motion carried unanimously.

HB 589 - Sen. Towe moved to amend the title, line 5, following "EFTF", by striking "POLICE" and inserting "CITY", and in line 9, following "MUEFIPBE", by striking "DRINKING" and inserting "ALL TRAFFIC AND ALCOHOLIC BEVERAGE"; to further amend page 1, section 1, line 23,

following "city", by striking "POLICE" and inserting "city"; to amend page 1, section 1, line 25, following "all", by striking "drinking" and inserting "alcoholic beverage"; and to further amend page 2, section 1, lines 2 through 8, following "youth" on line 2, by striking lines 2 through 8 in their entirety and inserting a ".". The motion carried unanimously. He then moved that HB 589 as amended BE CONCURRED IN. The motion carried unanimously.

Sen. Towe was assigned by the Chairman to carry HB 589 and 721 on 2nd Reading.

HB 247 - Sen. Murray moved as previously amended BE CONCURRED IN. This bill had been rereferred to this committee for further consideration. After discussion, this motion was made. The motion carried on a vote of 6 - 1 and 1 excused.

HB 238 - Sen. Lockrem of Billings, sponsor of this bill who had not been able to attend the hearing on it, was present and allowed to testify. He said that S.B. 360 was a simpler bill than this and that HB 238 is in bad shape and that it was hard for him to subscribe to it. He told the committee that the Public Service Commission is regulating cities which have city officials who set water rates, and this bill would allow city councils to sit in as a legislative body sitting in a regulatory capacity. He said that the subcommittee had subscribed to this.

Sen. Towe moved that HB 238 BE NOT CONCURRED IN. The motion carried with Sen. Olson voting "No".

HB 513 - Sen. Towe moved to amend page 1, section 1, lines 18 and 19, following "razor," by striking "shotgun sawed off to a length of 18 inches or less,"; and to amend page 2, section 2, line 12, following "94-8-210", by inserting "which cannot be used for any lawful purpose"; and to amend page 3, section 2, line 9, following "section", by striking the ",". Motion carried unanimously. He then moved that HB 513 as amended BE CONCURRED IN. The motion carried unanimously.

HB 668 - Sen. Lensink moved that HB 668 BE NOT CONCURRED IN. The motion carried on a vote of 4 - 3 with Senators Roberts, Warden and Towe voting "No".

HB 411 - Sen. Towe moved to amend (see attachment #1). The motion carried unanimously. He then moved that HB 411 as amended BE CONCURRED IN. The motion carried unanimously.

The Chairman appointed Sen. Towe to carry HB 411 on 2nd Reading.

HB 320 - Sen. Towe moved that HB 320 BE CONCURRED IN. The motion carried unanimously. Sen. Towe will also carry this bill on 2nd Reading.

HB 633 - Sen. Lensink moved that HB 633 BE NOT CONCURRED IN. The motion carried on a vote of 6 - 1 with Sen. Roberts voting "No" and 1 senator excused.

There being no further business, the committee adjourned at 11:15 a.m..

Sean A. Towe

JUDICIARY COMMITTEE

Date 3-24-77

Exec. Sec. -

[illegible]

SIXTY-EIGHTH LEGISLATIVE DAY

Helena, Montana
March 24, 1977

Senate Chambers
Capitol Building

Senate convened at 1:30 p.m., President McOmber presiding. Invocation by the Chaplain. Pledge of Allegiance to the Flag.

Roll call. All members present except Dunkle, excused. Quorum present.

Mr. President: We, your Committee on Bills and Journal, having examined the daily journals for the Sixty-sixth and Sixty-seventh Legislative Days, find the same to be correct.

WARDEN, Chairman

REPORTS OF STANDING COMMITTEES

BILLS (Warden, Chairman):

Signed by the Speaker of the House and President of the Senate, were this day, at the hour of 8:57 a.m., delivered to the Governor for his approval - SB 38, SB 117, SB 199. Report adopted.

The Senate will please take note that the President did, at the hour of adjournment, March 23, 1977, sign the following bills:

SB 46, SB 47, SB 94, SB 133, SB 174, SB 220, SB 272, SB 281, SB 288, SB 321, SB 334, SB 398, SB 414, HB 34

W. GORDON McOMBER
President

EDUCATION (Blaylock, Chairman):

HB 541, third reading bill, be reported without recommendation. Report adopted.

JUDICIARY (Turnage, Chairman):

HB 320 be concurred in. Report adopted.

NATURAL RESOURCES (Flynn, Chairman):

HB 558 be concurred in. Report adopted.

TAXATION (Mathers, Chairman):

HB 100 be concurred in. Report adopted.

HB 157 be concurred in. Report adopted.

HB 309 be concurred in. Report adopted.

HB 584 be concurred in. Report adopted.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Concurred in and returned to the Senate for concurrence in House Amendments:

Senate Bill No. 101, introduced by Jergeson, Brown, et al

Senate Bill No. 203, introduced by Dunkle

Senate Bill No. 223, introduced by Devine, Thomas, et al

Senate Bill No. 331, introduced by Lensink, Warden

Concurred in and returned to the Senate:

Senate Bill No. 231, introduced by Rasmussen

of a writ of execution or attachment shall provide a bond or other security to pay for all costs which may be incurred as a result of the service of such writ."

And, as so amended, be concurred in. Report adopted.

HB 513, third reading bill, be amended as follows:

1. Amend page 1, section 1, lines 18 and 19.
Following: "razor,"
Strike: "shotgun sawed off to a length of 18 inches or less,"
2. Amend page 2, section 2, line 12.
Following: "94-8-210"
Insert: "which cannot be used for any lawful purpose"
3. Amend page 3, section 2, line 9.
Following: "section"
Strike: ",",

And, as so amended, be concurred in. Report adopted.

LABOR AND EMPLOYMENT RELATIONS (Lee, Chairman):

HB 370 be reported without recommendation. Report adopted.

HJR 25, third reading bill, be amended as follows:

1. Amend page 2, lines 20 through 24.
Following: line 19
Strike: lines 20 through 24 in their entirety.

And, as so amended, be reported without recommendation. Report adopted.

PUBLIC HEALTH, WELFARE, AND SAFETY (Stephens, Chairman):

HB 694 be concurred in. Report adopted.

HJR 74 be concurred in. Report adopted.

TAXATION (Mathers, Chairman):

HB 324, third reading bill, be amended as follows:

1. Amend page 1, section 1, line 12.
Following: "assessments"
Insert: "for improvements on both sides of a corner lot"
2. Amend page 1, section 1, line 14.
Following: "is the"
Strike: "shorter"
Insert: "average"
3. Amend page 1, section 1, line 17.
Following: "body"
Strike: "may"
Insert: "shall"
4. Amend page 1, section 1, lines 19 and 20.
Following: "costs"
Strike: "of the side not considered as frontage for the purpose of assessment"
Insert: "according to the lineal feet assigned to each lot"

And, as so amended, be reported without recommendation. Report adopted.

March 29, 1977

SENATE
COMMITTEE OF THE WHOLE

That House Bill No. 513 be amended as follows:

1. Amend title, line 5.

Following: "CARRYING"

Strike: "AND DISPOSING"

2. Amend section 2, page 2, line 9 through line 11 on page 3.

Following: line 8

Strike: section 2 in its entirety

HOUSE BILL NO. 513

INTRODUCED BY GILLIGAN, RYAN

BY REQUEST OF COUNTY ATTORNEY'S ASSOCIATION

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
CARRYING AND--DISPOSING OF CONCEALED WEAPONS; AMENDING
SECTION 94-8-210; AND REPEALING SECTION 94-8-211, R.C.M.
1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 94-8-210, R.C.M. 1947, is amended
to read as follows:

"94-8-210. Carrying certain concealed weapons in
cities--or--towns forbidden--punishment. (1) Every person
who--within-the-limits-of-any-city-or-town, carries or bears
concealed upon his person a dirk, dagger, pistol, revolver,
slingshot, swordcane, billy, knuckles made of any metal or
hard substance, knife having a blade four inches long or
longer, razor, not including a safety razor, ~~shotgun saved~~
~~off-to-a-length-of-18-inches-or-less~~ or other deadly
weapon, shall be punished by a fine not exceeding five
hundred dollars or by imprisonment in the county jail for a
period not exceeding six months, or by both such fine and
imprisonment, ~~or may be punished by imprisonment in the~~
~~state penitentiary for a period not exceeding five years~~"

(2) A person who has previously been convicted of an
offense, committed on a different occasion than the offense
under this section, in this state or any other jurisdiction
for which a sentence to a term of imprisonment in excess of
1 year could have been imposed and who carries or bears
concealed upon his person any of the weapons described in
subsection (1) shall be punished by a fine not exceeding
\$1,000 or imprisoned in the state prison for a period not
exceeding 5 years, or both."

Section 2. There is a new R.C.M. section that reads as
follows:

Disposing of--confiscated--concealed weapons--(1)--Any
weapon described in 94-8-210 ~~WHICH CANNOT BE USED FOR ANY~~
~~LAWFUL PURPOSE~~ when unlawfully possessed, is declared to be
a--nuisance--Any weapon confiscated under 94-8-210 shall be
delivered to the sheriff for the county wherein the weapon
was confiscated.

(2)--The sheriff to whom the weapon is surrendered
shall destroy it, cause it to be destroyed, or render it--or
cause it to be rendered useless for its intended purpose and
harmless to human life.

(3)--Notwithstanding subsection (2) of this section,
the sheriff to whom the weapon is surrendered may not
destroy it if:

(a)--a judicial officer of a court of record or a

REFERENCE BILL

1 county attorney files with the sheriff an affidavit stating
2 that the preservation thereof is necessary to serve the ends
3 of justice or

4 {b}--a judicial officer of a court of record or a
5 county attorney directs the weapon to be retained in a
6 laboratory for the purpose of research, comparison,
7 identification or other endeavor toward the prevention and
8 detection of crime.

9 {4}--An official record shall be made and retained in
10 the case of destruction under subsection {2} of this
11 section of a firearm giving the caliber, model, make and
12 manufacturer's name and serial number or, if none, any other
13 distinguishing number or identification mark.

14 Section 2. Repealer. Section 94-8-211, R.C.M. 1947, is
15 repealed.

-End-